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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,537	11/20/2003	Kentaro Yokoi	009270-0306811	5242
909 7590 06/24/2008 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102				
EXAMINER				
AKHAVANNIK, HADI				
ART UNIT		PAPER NUMBER		
2624				
MAIL DATE		DELIVERY MODE		
06/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/716,537

**Applicant(s)**

YOKOI, KENTARO

**Examiner**

HADI AKHAVANNIK

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/22/08 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-5 and 10-14 have been considered but are moot in view of the new ground(s) of rejection. Please see new rejection made with Igaki et al. (5109428)

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Igaki et al. (5109428, referred to as "Ig" herein).

Regarding claim 1, Ig discloses an individual recognizing apparatus comprising: a data acquisition unit configured to acquire a plurality of certifying data from a recognized individual, the plurality of certifying data comprising attribute information associated with the recognized individual that is repeatedly acquired (see column 3 lines 40-50 and column 1 lines 41-52, which disclose that a plurality of frames of a fingerprint are acquired);

a detection unit configured to detect feature points from the plurality of certifying data acquired by the data acquisition unit (see column 3 line 62 to column 4 line 38 which discloses finding minutiae data for each of the image frames);

A change calculation unit configured to calculate the change in position of the like feature points detected from the plurality of certifying data by the detection unit (column 4 lines 12-38 which discloses comparing the frames feature points, this can also be seen in figures 5a-5d)

an aptitude judging unit configured to judge whether the plurality of certifying data acquired by the data acquisition unit are appropriate for the preparation of a certifying dictionary based on the change in the like feature points calculated by the change calculation unit, the plurality of certifying data being judged inappropriate if the change in like feature points is above and/or below at least one threshold value (see column 4 line 39 to column 5 line 23 which discloses only storing the data that is the higher confidence matched points);

a dictionary preparing unit configured to prepare a certifying dictionary with one or more certifying data of the plurality of certifying data that are judged by the

appropriate aptitude judging unit and dictionary storing unit to store the certifying dictionary prepared by the dictionary preparing unit and a certifying unit configured to certify whether a recognized person is a proper person using the certifying data acquired by the data acquisition unit and the one or more certifying data in the dictionary stored in the dictionary storing unit (see column 5 lines 25 to 65 which discloses evaluating the data against a dictionary and transferring the data to store the images should the data be verified as good data. Figures 6-8 also show this process in general steps)

Regarding claim 10, please see the rejection of claim 1 as it discloses all aspects of claim 10.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 and 11-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Ig in view of Fukui et al. (5982912, referred to as "Fukui" herein) .

Regarding claim 2, Ig does not explicitly disclose checking for angles but discloses all other aspects of claim 2.

Fukui discloses calculating the angle changes in column 5 lines 54-60).

It would have been obvious at the time of the invention to one of ordinary skill in the art to include in Ig the angle detection means as taught by Fukui. The reason for

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the combination is because it makes for a more robust system that is able to check for the quality of data by seeing how the feature point's angles differ. Further both inventions are from the same field of endeavor of identification.

Regarding claim 3, figure 6 and column 2 lines 18-65 of Fukui discloses that the data is face images.

Regarding claim 4, Fukui discloses finding eyes in column 3 lines 63-65.

Regarding claim 5, the examiner takes official notice that it would have been exceedingly obvious at the time of the invention to one of ordinary skill in the art to include in Fukui and Ig a means restart the evaluation with the data is judged to be inappropriate. The reason is because it is well known to create a loop in the system when attempting to detect faces within an image.

Regarding claim 11-14, these are the method claims of claims 2-5 and the rejection of claim 2-5 disclose all aspects of claim 11-14.

#### **. Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HADI AKHAVANNIK whose telephone number is (571)272-8622. The examiner can normally be reached on 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh M. Mehta can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bhavesh M Mehta/  
Supervisory Patent Examiner, Art Unit 2624

HA  
6/19/08